

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

97-cr-63-bbc-1

CHRISTOPHER D. KAHN,

Defendant.

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A hearing on the probation office's petition for judicial review of Christopher D. Kahn's supervised release was held on May 30, 2013, before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant U.S. Attorney Jeffrey M. Anderson. Defendant was present in person and by Associate Federal Defender Kelley A. Welsh. Also present was Assistant Deputy Chief U.S. Probation Officer Paul J. Reed.

From the record and the parties' stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on February 25, 1998, following his conviction for possession with intent to distribute a Schedule II controlled substance, cocaine, a Class D felony; maintaining a place for the purpose of using a controlled substance, cocaine, a Class C felony; maintaining a place for the purpose of distributing a controlled substance, cocaine, a Class C felony; distribution of a Schedule I

controlled substance, marijuana, to person under 21 years of age, a Class C felony; and structuring financial transactions to evade currency transaction reporting requirement, a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 151 months as to each of counts 1, 2, 3 and 4, and a term of imprisonment of 120 months as to count 5, with all terms to run concurrently with one another. Fifteen-year terms of supervised release were ordered on each of counts 1 and 4 and three-year terms of supervised release were ordered on each of counts 2, 3 and 5. On July 19, 2004, defendant's sentence was amended to provide that as to each of counts 1, 2, 3 and 4, he was committed to the custody of the Bureau of Prisons for a term of 145 months. As to count 5, defendant was committed to the custody of the Bureau of Prisons for a term of 120 months, with all terms to run concurrently. The term of supervised release was affirmed.

Defendant began his term of supervised release on January 8, 2008, in the Western District of Virginia. Defendant violated Standard Condition No. 6, requiring him to notify the probation officer within 72 hours of any change in residence or employment, when he absconded from supervision in May 2008. Defendant violated Standard Condition No. 2, requiring him to report as directed and submit written monthly reports, when he failed to report in any capacity to the probation officer after May 6, 2008. Defendant also violated Standard Condition No. 1, prohibiting him from leaving the judicial district without permission, by leaving the country and traveling to Puerto Vallarta, Mexico, where he was arrested on April 18, 2013.

Defendant's conduct falls into the category of a Grade C violation. Section 7B1.3(a)(2) of the advisory guidelines provides that the court may revoke supervised release, extend the term of supervised release or modify the conditions of supervised release upon a finding of a Grade C violation.

### CONCLUSIONS

Defendant's violations warrant revocation. Defendant's criminal history category is III. With a Grade C violation, defendant has an advisory guideline term of imprisonment of 5 to 11 months. The statutory maximum to which defendant can be sentenced upon revocation is ten years under 18 U.S.C. § 3583(e)(3), which provides that a person whose term of supervised release is revoked may not be required to serve more than two years' custody if the offenses for which he was sentenced previously were Class C and D felonies. 18 U.S.C. § 3583(h) authorizes another term of supervised release if supervision is revoked.

After reviewing the non-binding policy statements of Chapter 7 of the Sentencing Guidelines, I am selecting a sentence above the guideline range to hold defendant accountable for his behavior and protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on February 25, 1998, and affirmed on July 14, 2004, is REVOKED and defendant is committed to the custody of the Bureau of Prisons to serve a term of 24 months on each of counts 1-5, with the terms to run concurrently. No term of supervision shall follow.

I recommend that defendant be housed as close as possible to his mother's residence in Seattle, Washington.

Defendant does not have the financial means or earning capacity to pay the cost of his incarceration.

Entered this 30th day of May 2013.

BY THE COURT:

/s/

Honorable Barbara B. Crabb

U.S. District Judge